

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA EX REL.
WAYNE STENEHJEM,
ATTORNEY GENERAL,

Petitioner,

-vs-

DAVID BIDDICK
dba TROPICAL TRAVEL,
dba GRAND CARIBBEAN,

Respondent.

Civil No. **07 C 2060**

ORDER OF APPROVAL

CPAT 070165.001

Pursuant to the authority of this Court provided in N.D.C.C. § 51-15-06.1,

IT IS HEREBY ORDERED that the attached Assurance of Voluntary Compliance
is approved as an assurance of discontinuance as specified in N.D.C.C. § 51-15-06.1.

The Clerk of Court shall receive and file this Assurance of Voluntary Compliance.

Dated this 18th day of September, 2007.

BY THE COURT:

151 Donald Gjenssen
Judge of the District Court

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Clk. of Ct. Burleigh Co.

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Respondent.

Civil No. **07 C 2060**

**ASSURANCE OF
VOLUNTARY COMPLIANCE**

CPAT 070165.001

To each person or entity identified below, hereinafter "Respondent":

David Biddick
dba Tropical Travel
dba Grand Caribbean
W74 N867 Poplar Street
Cedarburg, WI 53012
262-893-9873
262-377-5052 (fax)
xxvission@aol.com

and

PO Box 1395
Murfreesboro, TN 37133
773-991-2696
ToGrandCaribbean@aol.com

WHEREAS Wayne Stenehjem, Attorney General of the State of North Dakota (hereinafter "Attorney General"), acts in the public interest pursuant to North Dakota Century Code ("N.D.C.C.") chs. 51-15 (commonly referred to as the Consumer Fraud Statute) and 53-11 (commonly referred to as the Contest Prize Notice Statute); and

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Clk. of Crt. Burleigh Co.

WHEREAS Respondent is what is commonly known as a "list broker," engaged in the State of North Dakota in the business of developing customer leads and assisting in and supporting the solicitation and selling of merchandise, as those terms are defined in N.D.C.C. § 51-15-01, namely travel packages in conjunction with and on behalf of time-share property sellers; and

WHEREAS the Attorney General has determined that in the public interest an investigation should be conducted into the activity of Respondent, and those to whom Respondent sells leads, to ascertain whether violations of chs. 51-15, 51-18 and 53-11 have occurred; and

WHEREAS N.D.C.C. ch. 51-15 prohibits the act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby and further it is a deceptive act or practice in violation of that chapter for any person to provide assistance or support to any person engaged in any act or practice in violation of that chapter when the person providing assistance or support knows or consciously avoids knowing that the other person is engaged in an act or practice in violation of that chapter; and

WHEREAS N.D.C.C. ch. 51-18 regulates home solicitation sales and requires, among other things, that sellers provide North Dakota consumers with both oral and written cancellation rights; and

WHEREAS N.D.C.C. ch. 53-11 regulates, among other things, the required disclosures with respect to the awarding of prizes under North Dakota law; and

WHEREAS, the Attorney General has received one or more consumer complaints and/or other information indicating Respondent, among other things, may have engaged in conduct, or assisted and facilitated others in engaging in conduct, in violation of North Dakota law, including but not limited to:

- failing to provide North Dakota consumers notices of cancellation as provided by North Dakota law;
- misrepresenting to consumers that they had won a contest prize, when in fact Respondent was merely participating in an offer to sell a discounted travel package for purposes of inducing consumers to purchase time-share real estate;
- failing to make the required disclosures with respect to the award of a contest prize;
- failing to secure knowing and intelligent waivers of State and/or federal do-not-call law rights;

and

WHEREAS as a result of this investigation the Attorney General has reason to believe Respondent has violated N.D.C.C. chs. 51-15 and 53-11; and

WHEREAS the parties desire to settle the alleged violations, without an admission of liability on the part of Respondent;

NOW THEREFORE it is hereby agreed:

1. This Assurance of Voluntary Compliance shall constitute the statutory assurance of discontinuance as provided in N.D.C.C. § 51-15-06.1. Respondent acknowledges *in personam* jurisdiction in North Dakota. Nothing in this Assurance of

Voluntary Compliance is intended to waive any rights or private remedies available to consumers. See also N.D.C.C. § 51-15-09.

2. Respondent, as well as any directors, officers, principals, employees, agents, contractors, servants and all other persons in active concert or participation with it whether directly or indirectly voluntarily agree to be and are permanently enjoined from engaging in the sale of merchandise, or doing business of any kind, in the State of North Dakota.

3. Respondent shall make a payment to the Attorney General in the sum of **\$5,000** in lieu of civil penalties, investigation costs and attorney fees. Payment shall be the form of a check or money order payable to **Office of Attorney General – North Dakota**, and delivered to:

Consumer Protection
& Antitrust Division
Office of Attorney General
4205 State Street
Bismarck, ND 58503-0623
Attn: JPTThomas

The payment may be made in two installments: payment of \$2,500 must be received on or before **September 17, 2007**; payment of the remaining \$2,500 must be received on or before **October 17, 2007**. Any payment due under this Assurance of Voluntary Compliance which is not received in a timely fashion is deemed delinquent and a material violation of this Assurance of Voluntary Compliance.

4. Respondent sold leads from the 2007 Fargo RibFest to (1) Jennifer Donohue in New York who in turn sold packages for Plaza Resorts, Inc. in Florida; (2) Eric Lewenstein in New York who in turn sold packages for Plaza Resorts, Inc. in Florida; (3) Sharon R. Pincous in New York who in turn sold packages for Bluegreen

Corp. in Florida; and, to (4) Resort Tours & Accommodations, Inc. in Florida. Respondent hereby represents and affirms, under penalty of perjury, that Respondent has not sold or provided 2007 Fargo RibFest leads to any person or entity other than those identified herein; any misrepresentation or omission by Respondent to the Attorney General with respect to whom Respondent sold or provided 2007 Fargo RibFest leads to shall be deemed a violation of this Assurance of Voluntary Compliance.

5. Respondent agrees it will comply with this Assurance of Voluntary Compliance and further acknowledges and agrees any violations of this Assurance of Voluntary Compliance shall be punishable as contempt of court pursuant to N.D.C.C. ch. 27-10. Further, Respondent may be subject to all other civil penalties and sanctions provided by law, including attorney fees and costs with respect to past violations of North Dakota law in addition to with respect to any new violations. Respondent agrees to pay a civil penalty of at least \$1,000 per violation for any violations of this Assurance of Voluntary Compliance, or any future violations of N.D.C.C. chs. 51-15, 51-18 or 53-11; provided, however, the Attorney General shall not be precluded from seeking more than \$1,000 per violation, or any other remedies provided in N.D.C.C. ch. 51-15 or other North Dakota law. Respondent agrees that in the event violation of this Assurance of Voluntary Compliance, the Attorney General may pursue all claims and complaints – past, present and future – against Respondent as well as retain any payments already made.

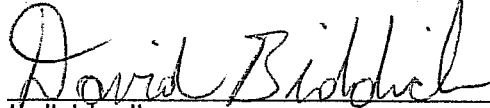
If Respondent is adjudged in contempt of court for violations of this Assurance of Voluntary Compliance, adjudged in violation of this Assurance of Voluntary Compliance

or adjudged in violation of N.D.C.C. chs. 51-15, 51-18 and/or 53-11, said Respondent shall also be responsible for payment to the Attorney General for reasonable investigation costs, expenses and attorney fees.

6. In the event of a breach of this Assurance of Voluntary Compliance, the Attorney General may, without further notice to Respondent, make application to a State of North Dakota District Court to have the entire amount still owing under the Assurance of Voluntary Compliance entered as a formal judgment so it may be filed on the judgment roll and docketed pursuant to North Dakota law. See N.D.C.C. §§ 28-20-11, -12 and -13. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of each violation of this Assurance of Voluntary Compliance.

7. Respondent represents the signer below is competent and fully authorized to act on behalf of Respondent. Respondent acknowledges it has been provided the opportunity to review this Assurance of Voluntary Compliance with an attorney, understands the implications and obligations imposed by it and has knowingly entered into this Assurance of Voluntary Compliance. Respondent further acknowledges and agrees this Assurance of Voluntary Compliance may be approved by and filed with the State of North Dakota District Court without any further notice or hearing. Signatures transmitted electronically or via facsimile by Respondent shall be deemed the equivalent of original signatures; this document may be executed in counterparts, with each counterpart deemed an original.

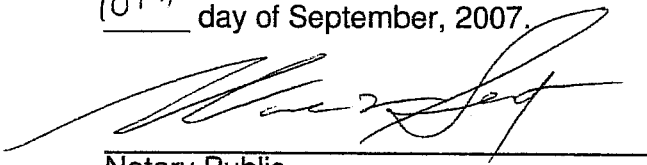
DAVID BIDDICK
dba TROPICAL TRAVEL
dba GRAND CARIBBEAN
(including all "doing business as" names, formal
corporate names, fictitious names of any kind or
any variations of the same)


Individually

STATE OF NY }
COUNTY OF Queens } ss

Subscribed and sworn to before me this

10th day of September, 2007.


Notary Public

WILLIAM W. SEITZ
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN QUEENS COUNTY
NO. 01SE4958436
MY COMMISSION EXPIRES 11-06-2009

This Assurance of Voluntary Compliance is hereby received and accepted.

Dated this 14~~th~~ day of September, 2007.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

By: _____



James Patrick Thomas

ID No. 06014

Assistant Attorney General

Consumer Protection and

Antitrust Division

Office of Attorney General

4205 State Street

PO Box 1054

Bismarck, ND 58502-1054

(701) 328-5570

Attorneys for Petitioner